

Introduced by Senator Corbett

January 18, 2013

An act to add Article 2 (commencing with Section 69540) to Chapter 5 of Title 8 of the Government Code, relating to courts.

LEGISLATIVE COUNSEL'S DIGEST

SB 123, as introduced, Corbett. Environmental and Land-Use Court.

Existing law establishes a statewide system of courts with a superior court of one or more judges in each county. Existing law requires the presiding judge of each superior court to distribute the business of the court among the judges, and to prescribe the order of business, subject to the rules of the Judicial Council.

This bill would require the presiding judge of each superior court to establish an environmental and land-use division within the court to process civil proceedings brought pursuant to the California Environmental Quality Act or in specified subject areas, including air quality, biological resources, climate change, hazards and hazardous materials, land use planning, and water quality. The bill would require the Judicial Council, by rule of court, to identify statutes in those specified areas that would be within the jurisdiction of the environmental and land-use court division. The bill would require the Judicial Council, by rule of court, to establish appropriate standards and protocols for the environmental and land-use court division to accomplish the objectives of consistency, expediency, and expertise, including educational requirements and other qualifications for specialized judges assigned to the division.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

SECTION 1. Article 2 (commencing with Section 69540) is added to Chapter 5 of Title 8 of the Government Code, to read:

Article 2. Environmental and Land-Use Court

69540. (a) The Legislature finds and declares all of the following:

(1) According to the World Resources Institute report entitled, “Greening Justice: Creating and Improving Environmental Courts and Tribunals” (2009), the number of courts and tribunals specializing in environmental issues doubled during the past decade, prompted by increasingly complex regulations and growing concerns about natural resources.

(2) Environmental issues are often complex and fragmented, and conflicting aspects of environmental management and protection have made it difficult for governments, developers, communities, and advocacy groups to achieve consistent and long-range sustainable development. This has resulted in pressures to streamline and rationalize the adjudication and enforcement process and increase access to justice around the world.

(3) California’s environmental and land-use court cases should be decided by specialized judges trained in environmental and land-use law, and whose decisions would be documented and published. It is important that the judicial selection process be unbiased.

(4) The creation of an environmental and land-use court can maximize both judicial competence and the speed of decisionmaking, allowing litigants to have their cases heard and an effective remedy delivered quickly. The court should hear the case in the county in which the case arose.

(b) Accordingly, it is the intent of the Legislature to establish an environmental and land-use division within each superior court to expedite civil proceedings within the jurisdiction of the division, with more consistent rulings and better outcomes for all parties of interest.

69542. (a) The presiding judge of each superior court shall establish an environmental and land-use division within the court to process all civil proceedings subject to this article. The Chief

1 Justice of California may direct the consolidation of two or more
2 superior courts in contiguous counties into a single environmental
3 and land-use division, which may convene at the various court
4 facilities within the participating counties as deemed appropriate,
5 with consideration given to the convenience of access of the parties.

6 (b) Both of the following shall be subject to this article:

7 (1) A civil proceeding brought pursuant to the California
8 Environmental Quality Act (Division 13 (commencing with Section
9 21000) of the Public Resources Code).

10 (2) A civil proceeding brought in any of the following subject
11 areas:

12 (A) Air quality.

13 (B) Biological resources.

14 (C) Climate change.

15 (D) Hazards and hazardous materials.

16 (E) Land use planning.

17 (F) Water quality.

18 (c) The Judicial Council shall, by rule of court, identify those
19 statutes within the subject areas identified in paragraph (2) of
20 subdivision (b) that are within the jurisdiction of the environmental
21 and land-use court division.

22 69544. The Judicial Council shall, by rule of court, establish
23 appropriate standards and protocols for the environmental and
24 land-use court division to accomplish the objectives of consistency,
25 expediency, and expertise identified in Section 69540, including
26 educational requirements and other qualifications for specialized
27 judges assigned to the division.